IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3208 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRAVINCHANDRA MADHAVJI

Versus

SURESH KESHAVAL SANGHVI

Appearance:

MR RK MISHRA for Petitioner

MR ND NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 12/01/2001

ORAL JUDGEMENT

1. The workman who was discharged from the services was ultimately required to move the Labour Court, Rajkot by filing Reference (LCR) No. 126/83 and the Labour Court rejected the relief of reinstatement. However, ordered to

pay the amount of compensation of Rs.375/- with cost of Rs.200/- to the workman.

2. The short facts which are relevant for disposal of this petition are that the workman filed statement of claim at exh. 3. The workman was working in Suresh Keshavlal Sanghani Flour Mill. The employer used to pay monthly wages of Rs.150/-. The workman worked for 3 years and that on 31/5/1982 he was illegally discharged without any ground by written chit exh.9 intimating that the workman is discharged.

3. Before the Labour Court the employer filed written statement exh. 13 inter-alia contending that the applicant was never working with the employer, but was running the flour mill on oral contract at the rate of Rs.2.50 per unit. It was further alleged that there was tampering with the meter by the workman and when this was detected, he left the mill without informing the employer.

4. Upon scrutiny of the evidence the Labour Court has observed that in the cross-examination the workman has denied that he illegally tampered with the meter and voluntarily left the flour mill. In view of exh.9 it is clear that there is no question of leaving the services voluntarily. He did not have knowledge as to when the flour mill has been closed.

5. The employer examined one Bhavtosh Kishankant who was holding power of attorney of the employer. He came out with the version that the workman was running the flour mill on contract basis and the flour mill was closed since the workman left the mill. In the cross-examination he admitted that the workman was not employed in his presence. He did not know the terms and conditions on which the workman was running the mill. He admitted that he has no personal knowledge whatsoever. The Labour Court was of the view that the evidence of this witness did not take the matter any further.

6. It is required to be noted that before this Court it was contended that the workman was in fact working on contract basis i.e. getting Rs.2.50 per unit and hence there is no question of tampering with the meter. The moment it was detected, the petitioner left the flour mill. It is difficult to believe this version because if the workman had interest in tampering with the meter so as to indicate less unit, he would have got less amount because he was getting Rs.2.50 ps. per unit as per the contract. No material is placed on record with regard to

tampering of the meter to substantiate the case that in fact there was tampering. It seems that the Labour Court was of the view that the mill is now closed. Therefore, there is no question of making an order of reinstatement and hence passed an order of payment of compensation to the workman and the cost.

7. The amount of Rs.375/- for the period from 1982 to 1986 and for future loss is too meagre. Mr. Mishra, Ld. Advocate for the petitioner suggested that the petitioner would be satisfied if the amount of Rs.15,000/- is awarded. Considering the fact that in all the Tribunal ordered to pay Rs.575/- in the year 1986 and considering the index, it would be just and proper to direct the respondents to pay the sum of Rs.11,000/- (Rupees Eleven thousand only) to the petitioner-workman by way of compensation. Under the circumstances, the award is modified to the aforesaid extent only. The petition stands partly allowed. No order as to costs.

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* Pansala.